IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6058 OF 2005

Mohammed Hussein Merchant .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.Shirish Gupte, Senior Advocate with
A.P.Mundergi, Senior Advocate with
M.K.Kocharekar for applicant
Mr.S.R.Chitnis, Senior Advocate with S.V.Marvadi
for respondent No.2
Mrs.S.D.Shinde, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 20th December, 2005.

P.C.

. Heard Mr.Gupte, learned Senior Counsel for applicant and Ms.Shinde, A.P.P. for State. Mr.Chitnis, learned Senior Counsel intervenes for the original complainant - plaintiff in Suit No.1796 of 2005.

2. From a perusal of the application and the annexures thereto, including replies filed, it is clear to me that apart from the fact that applicant is 72 years old, is not required to be detained in custody, the dispute, essentially, is over development rights in an immovable property and the subject matter of civil litigation. It cannot, prima facie, constitute basis of criminal offence and more particularly those alleged in the subject C.R.

3. The application is, therefore, allowed. Hence, following order:-

i) In the event of the arrest of the applicant in connection with M.I.C.R.No.16 of 2005 registered with Borivali Police Station, the applicant shall be enlarged on bail in the sum of Rs.50,000/- with one surety in the like amont.

ii) Applicant shall attend Borivali Police station as and when summoned.

iii) Bail is granted subject to the condition that applicant shall not directly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate court for appropriate relief.

vi) Application disposed of.

vii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)